

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

JEFFERSON-PILOT INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.) CASE NO.
) C-1-02-479
CHRISTOPHER L. KEARNEY,) (Judge Spiegel)
)
Defendant.)

COPY

The deposition upon oral examination of JOHN L. ROBERSON, being taken pursuant to Order and in accordance with the Federal Rules of Civil Procedure before Rebecca J. Huddy, Notary Public, at the Marriott, 304 North Greene Street, Greensboro, North Carolina, on the 7th day of May, 2004, beginning at 8:40 a.m.

Reported By: Rebecca J. Huddy

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1 Department, and Mr. Ellis educated you yesterday about
2 your four years of errors?

3 MR. ELLIS: Objection. Go ahead.

4 A. Mr. Ellis did not educate me at all.

5 Q. Okay. I wouldn't suspect he could. So February 8 of
6 1995, this first letter of Exhibit 19, would not have
7 been your first contact with the Kearney claim,
8 correct?

9 A. That's correct.

10 Q. Are you mindful that Mr. Maxwell told Mr. Kearney in
11 1995 that his residual disability benefits were
12 payable for only two years?

13 A. I was after looking at this letter.

14 Q. Is that accurate or was that a misrepresentation by
15 Mr. Maxwell?

16 A. That was a mistake by Mr. Maxwell.

17 Q. It wasn't a misrepresentation, it was a mistake?

18 A. Yes.

19 Q. And you determined it was a mistake because you went
20 back and reviewed the policy and came to that
21 conclusion or did you just know because you have --
22 you're mindful of the policy provisions?

23 A. I'm mindful of the policy provisions.

24 Q. Okay. Tell me, sir, if the policy expressly and
25 unambiguously did not allow Mr. Kearney to receive

1 COLA and Social Security Supplement, how did you get
2 it wrong 90 times?

3 A. It was a residual disability claim for which he
4 qualified for the full residual benefit and except for
5 the payment of Social Security and the COLA, the
6 benefits were correct.

7 Q. You didn't answer my question. If you're so mindful
8 of these policies and if it's unambiguous that he's
9 just not entitled to COLA or Social Security, how did
10 you get it wrong for four years on 90 different
11 occasions?

12 A. I don't know how, but we did.

13 Q. Okay. Not only you got it wrong, but your subordinate
14 got it wrong on 90 different occasions, and I'm
15 confused. If the policy language is express, it's
16 unambiguous, there's no doubt about it, he's not
17 entitled to those benefits, how did the two of you get
18 it wrong 180 times over four years?

19 A. We made a mistake.

20 Q. Okay. You made 180 mistakes, right?

21 A. If that's the number of payments, yes.

22 Q. Up to your retirement, and then another 180 mistakes
23 were made after your retirement; you're mindful of
24 that?

25 A. Apparently once it got on the track, it just continued

1 running.

2 Q. Well, it didn't get on a track. You reviewed it every
3 month. Your initials appear every single month for
4 four years, right?

5 A. My initials are there, but you don't go back and look
6 at every aspect of the claim every month. You don't
7 have time to do it.

8 Q. Okay. So your company -- has your company ever before
9 made over 300 individual independent mistakes when the
10 language is so unambiguous, anyone could conclude that
11 it's a mistake? Has that ever happened before?

12 A. I don't have any independent knowledge of it
13 happening, but I'm sure that it's possible.

14 Q. 300 mistakes? That's possible? With someone who's
15 worked at the company for 38 years, Vice President?
16 Is that possible when the language is unambiguous?

17 A. Not only is it possible, it apparently happened in
18 this case.

19 Q. Okay. How come you didn't pick it up in four years?
20 If Mr. Ellis can pick it up and share it with you last
21 night, why couldn't you pick it up in four years?

22 MR. ELLIS: Objection.

23 Q. You can answer.

24 A. Here again, Mr. Ellis didn't share that with me last
25 night.